



THE ATTORNEY GENERAL  
OF TEXAS

JIM MATTOX  
ATTORNEY GENERAL

November 20, 1990

Mr. Cobby A. Caputo  
Attorney for Round Rock I.S.D.  
Hairston, Walsh, Anderson,  
Underwood & Schulze, P.C.  
P.O. Box 2156  
Austin, Texas 78768

OR90-552

Dear Mr. Caputo:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, article 6252-17a, V.T.C.S. Your request was assigned ID# 10350.

The Round Rock Independent School District (the district) received two open records requests from one of its teachers for all of her administrative files. You state that you have released portions of the files to the requestor; you contend, however, that you may withhold other information contained in the files pursuant to sections 3(a)(1), 3(a)(7), 3(a)(11), 3(a)(14), and 14(e) of the Open Records Act because

teachers asking to see the contents of their personnel files are to be treated as members of the general public, [and] if the District allows the teacher in question access to these records . . . the District will have to allow the public at large to see these documents, according to the doctrine that a document made public to one person is public forevermore.

While it is generally true that public employees have no special right of access to all information contained in their own personnel files, Open Records Decision No. 288 (1981), but see V.T.C.S. art. 6252-17a, § 3B, this office has previously held that employees may examine records in their role as employees without making them available to the general public. Open Records Decision No. 468 (1987) (copy enclosed). The records you seek to withhold were either created by the requestor or previously released to her pursuant to her educational responsibilities.

The documents at issue consist primarily of "education records" deemed confidential by federal law. See 20 U.S.C. § 1232g(a)(4)(A). The Family Educational Rights and Privacy Act  
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Act of 1974, which is informally known as "the Buckley Amendment," provides that no federal funds will be made available under any applicable program to an educational agency or institution that releases education records (or personally identifiable information contained therein other than directory information) of students without the written consent of the parents to anyone but certain enumerated federal, state, and local officials and institutions. See 20 U.S.C. § 1232g(b)(1). Teachers "who have been determined . . . to have legitimate educational interests" are permitted to view such records. See id. subsection (b)(1)(A).

It is not clear to this office, however, whether the teacher/requestor is seeking these records for a "legitimate" educational purpose. On the other hand, the district is not authorized under the Open Records Act to inquire as to the purpose for the request. See V.T.C.S. art. 6252-17a, § 5(b). This office is therefore confronted with the question of whether a teacher may be refused access to "education records" that the teacher has created or otherwise previously had access to where the purpose for the request is not clear. Because of the novelty of this question, and because the question will ultimately be governed by federal law, this office will, by copy of this letter, refer this matter to the Family Policy & Regulations Office of the Department of Education, the federal agency that oversees the administration of the Buckley Amendment.

The remaining documents that do not consist of "education records" were either created by the teacher/requestor or were previously released to her during the course of her educational duties. Consequently, the release of these records to the requestor would not constitute a release to the general public for purposes of section 14(a) of the Open Records Act. See Open Records Decision No. 468. We also note that none of the exceptions you raise with regard to these documents would further serve to protect them from disclosure from the requestor. In this instance, you may not withhold these documents from the requestor.

Because case law and prior published open records decisions resolve your request, we are resolving this matter with this informal letter ruling rather than with a published open records decision. If you have questions about this ruling, please refer to OR90-552.

Yours very truly,



Susan Garrison  
Assistant Attorney General  
Opinion Committee



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SG/RWP/1e

Ref.: ID# 10350

Enclosures: Open Records Decision No. 468

cc: Leroy Rooker  
Family Policy & Regulations Office  
Department of Education  
400 Maryland Avenue, S.W.  
Washington, D.C. 20202